

Application No. 10/715,660
Amendment dated January 4, 2006
Reply to Office Action of November 16, 2005

REMARKS

Status Of Application

Claims 1-14 are pending in the application; the status of the claims is as follows:

Claims 1-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,438,869 to Mueller et al. ("Mueller Patent") in view of U.S. Patent No. 3,859,651 to Thomas, Jr. ("Thomas Patent").

Claims 11-14 are allowed.

Claim Amendments

Claims 1, 5, and 11 have been amended to correct grammatical errors. These changes do not introduce any new matter.

Allowable Subject Matter

The allowance of claims 11-14, by the Examiner, is noted with appreciation.

No New Matter

This Amendment is being presented promptly after the discovery of the need therefor. This Amendment does not affect the scope of the claims, does not introduce any new matter, does not present any new issue, does not require any additional search, and will not present an undue burden on the personnel of the Patent and Trademark Office. Accordingly, it is respectfully requested that the Amendment be entered in accordance with 37 C.F.R. § 1.312.

35 U.S.C. § 103(a) Rejection

The rejection of claims 1-10 under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 5,438,869 to Mueller et al. ("Mueller Patent") in view of U.S. Patent No. 3,859,651 to Thomas, Jr. ("Thomas Patent"), is respectfully traversed based on the following.

As the Examiner correctly notes in the latest Office Action, prior art references must either be in the field of the applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned in order to be relied upon as a basis for rejection of a claimed invention. It is applicant's position that neither reference cited by the examiner, and in particular Mueller, satisfies this test.

As recited by the Examiner, the Mueller reference relates to an "improved robust reed switch configuration." Mueller accomplishes this by the addition of an "ameliorator" magnet that decreases the required amount of magnetic flux density created by an external magnet needed to cause the reeds of the reed switch to make contact. Mueller, Col., 10, ll.59 – 68. Mueller further discloses that the ameliorator magnet can be used to adjust the sensitivity of reed switches to ensure that all switches within a particular batch have the same sensitivity. Mueller, Col. 11, l. 51 – Col. 12, l. 35. Finally, Mueller states that his invention relates to magnetic contacts for use in intrusion detection systems. None of these aspects are in the Applicant's field of endeavor nor reasonably pertinent to the particular problem with which the applicant was concerned – specifically the creation of a reed switch within a dial gauge assembly which is capable of activating in the presence of one magnetic pole, but not in the presence of the opposite magnetic pole. Thus, Mueller, at least, is not relevant and should not have formed the basis for the Examiner's rejection.

For the sake of argument only, Applicant is willing to suppose that the dial magnet of the present invention could be roughly equated to the external magnet of Mueller only to the extent that both cause the activation of their respective reed switches. However, it is important to note that Mueller still does not recognize the problem addressed by

Applicant, namely the situation where the reed switch is placed in proximity to each pole of the external magnet over the range of operating positions. Specifically, the external magnet of Mueller is fixed to a door or window and presents only one pole to the reed switch. Mueller, Col. 9, ll. 9 – 27, figures 5 & 7. The Mueller invention therefore does not appreciate or seek to rectify the particular problem addressed by Applicant.

Similarly, Thomas, while disclosing an angular gauge, also does not appreciate the problem of creating a reed switch that closes only in the presence of one magnetic pole but not the other. In particular, as shown in Fig. 1 of Thomas, the Thomas gauge needs only to measure angles over a range of 90 degrees. The Thomas gauge does not encounter the situation wherein the pointer must travel for 180 degrees or more, causing an embedded reed switch to encounter both poles of the pointer magnet.

Because neither Thomas nor Mueller recognizes the problem addressed by Applicant, it would not have been obvious for one of ordinary skill in the art to combine the two cited references.

Finally, Applicant notes that, contrary to the Examiner's assertion (page 3, last paragraph), Mueller does not disclose a bias magnet [140] positioned adjacent to a reed switch that is held in the first position when the poles of the dial and bias magnets are in a first orientation and will be held in a second position when the poles of the dial magnet and bias magnet are in a second orientation. As discussed above, Mueller does not address a first or second orientation of the poles of a dial or bias magnet. Rather Mueller operates on the principal that the reed switch will be in a first position when the entire external magnet is in a first position (adjacent the reed switch) and in a second position when the entire external magnet is in a second position (removed from the reed switch). Mueller, Col. 9, ll. 9 – 27. As each of rejected independent claims 1 and 5 as well as the claims which depend therefrom include the limitation that the position of the reed switch change in reaction to a change in the position of the poles of the external magnet, the Examiner's rejection of claims 1-10 is inappropriate.

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Accordingly, it is respectfully requested that the rejection of claims 1-10 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,438,869 to Mueller et al. ("Mueller Patent") in view of U.S. Patent No. 3,859,651 to Thomas, Jr. ("Thomas Patent"), be reconsidered and withdrawn.

CONCLUSION

Wherefore, in view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and an early reconsideration and a Notice of Allowance are earnestly solicited.

This Amendment does not increase the number of independent claims, does not increase the total number of claims, and does not present any multiple dependency claims. Accordingly, no fee based on the number or type of claims is currently due. However, if a fee, other than the issue fee, is due, please charge this fee to Hitchcock Evert LLP's Deposit Account No. 503374.

Any fee required by this document other than the issue fee, and not submitted herewith should be charged to Hitchcock Evert LLP's Deposit Account No. 503374. Any refund should be credited to the same account.

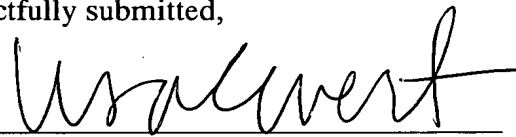
If an extension of time is required to enable this document to be timely filed and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed.

Any other fee required for such Petition for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§ 1.16 and 1.17, other than the issue fee, and not submitted herewith should be charged to Hitchcock Evert LLP's Deposit Account No. 503374. Any refund should be credited to the same account.

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Respectfully submitted,

By: _____

A handwritten signature in black ink, appearing to read 'Elisabeth A. Evert', written over a horizontal line.

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